IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO. 3747 OF 1994

Amol Sharad Awar .. Petitioner

Vs.

The Committee for the Scrutiny and Varification of the Tribal Claim, Pune and anr. .. Respondents

Mr. S.B. Deshmukh h/f Mr. A.V. Anturkar for petitioner.

Mr. P.M. Patil, AGP for State.

CORAM : B. H. MARLAPALLE &
D. B. BHOSALE,JJ.

Date : March 16, 2006.

P.C.:

1. The petitioner claims to belong to Munervarlu scheduled tribe and the Scrutiny Committee (Respondent No.1) had turned down the petitioner's tribe's claim by its order dated 30/5/1994. The said order came to be challenged in Writ Petition No.2384 of 1994 in the first round, on the ground that the order was passed ex parte. On 24/6/1994 a Division Bench of this court allowed Writ Petition No.2384 of 1994 and set aside the order dated 30/5/1994 turning down the tribe's claim of the petitioner. The Committee was directed by this court to hear the petitioner and decide his claim afresh on merits. The petitioner was directed

to remain present before the Committee on 11/7/1994 and the Committee was required to decide the claim afresh on or before 16/7/1994. Accordingly, the Committee considered the petitioner’s tribe’s claim afresh and rejected the petitioner’s claim by an order dated 15/7/1994 and the said order has been assailed in this petition in the second round.

2. The petitioner had submitted in all five documents in support of his tribe’s claim and two of them were in respect of his father’s caste claim. In the School Leaving Certificate of the petitioner’s father his caste was recorded as "Telgu" as per the certificate issued on 27/6/1961. The Committee also noted that the petitioner’s father’s caste claim was referred to the Director, Tribal Research and Training Institute for guidance and the petitioner’s father had submitted in all 20 documents. All these documents were found to be inadequate to support the claim of the petitioner. Though the petitioner relied upon the order passed in Appeal No.7 of 1993 in the case of Kum. Revati Anil Awar claiming that she was his cousin, the Scrutiny Committee held that every claimant must stand on his or her feet and support the claim independently.

3. We have noted that the petitioner's cast claim was not subjected to the vigilance inquiry as the same was not prevailing when the impugned order was passed in the year 1994. The claim that the petitioner belongs to scheduled tribe is important for his social benefits and, therefore, we are of the considered view that the petitioner's claim should be considered by the Committee afresh by following the procedure applicable as at present, including the vigilance inquiry etc. The learned counsel for the petitioner states that he has no instructions regarding the present position i.e. whether the petitioner is in Government service or whether he has been admitted to any professional course as the petitioner has taken away the papers.

4. We, therefore, allow this petition partly and quash and set aside the impugned order. We direct the Scrutiny Committee to scrutinize the petitioner's claim for belonging to scheduled tribe (Munervarlu) afresh by following the procedure as applicable as at present, including the vigilance inquiry etc. The afresh adjudication shall be completed as expeditiously as possible and preferably within a period of six months from the date of first appearance of the petitioner before the Committee. The

petitioner shall appear before the Committee on 10th April 2006 at 11.00 a.m. and in case the petitioner fails to prosecute his claim, it will be presumed that he has given up the same and the Committee will not be required to adjudicate upon the same.

5. Rule is made absolute in terms of the above directions with no order as to costs.

(D.B. Bhosale,J.) **(B.H. Marlapalle, J.)**